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ment upon the University and upon the School of Law. It is certain that the work of the present year will be even more difficult, with practically the whole student body and a part of the faculty in government service. Nevertheless, for the same reasons that were controlling last year, the JOURNAL plans to publish its eight numbers as usual and, so far as may be within the power of its board of editors, to cover the same field. With the righteous and unavoidable war that is now being waged by our country this JOURNAL is in fervent, whole-hearted sympathy. If in any respect the publication of the JOURNAL shall be found to conflict with the needs of the Government it will, of course, willingly cease publication. But in spite of the existence of war—indeed, because of it—our courts are continually deciding cases, our legislatures are adopting measures of almost revolutionary character, our law is undergoing rapid change and development. During such a period critical review and comparison are doubly necessary. The JOURNAL will therefore continue to report on leading cases and legislation, both at home and abroad, as fully as present conditions may permit, and will make special effort to deal with legal problems related to the war.

In one respect the present is a most auspicious time for carrying out the purposes of the JOURNAL. At no time have the many allied nations felt so great a debt to America, and at no time have the jurists of these nations been so ready as now to contribute to the pages of American journals. It is hoped that our present volume will contain articles on the living issues of the law by men of high standing as jurists in England, Canada, France, Italy, and other countries of Europe and South America.

THE LAW SCHOOL

The military necessities of the Government have called into service practically all able-bodied men of student age. Several of the law schools have temporarily closed; those which continue open have only a handful of students. The registration at the Yale Law School, including those students who by reason of induction into the Students' Army Training Corps can devote little or no time to the study of law, is about fifteen per cent of the normal enrollment.

The faculty also is reduced in number. The JOURNAL records with deep regret that Professor Edgerton and Professor Hohfeld are forced to be absent by illness. It is also a cause of regret that Professor Dunn's resignation and return to practice in Boston have deprived the School of his valued services. Professor Taft has been granted leave of absence in order to devote himself to important duties in Washington as a member of the War Labor Board. Professor Morgan, now a Lieutenant Colonel in the Judge Advocate General's office, is also to be in Washington. Professor Wurts has returned from his sabbatical leave of absence.

The curriculum remains practically the same as last year, although the reduced number of both students and faculty will result in the omission of a few of the usual courses. But the labors of the professors will be heavier rather than lighter than in normal years. Certain members of the faculty are taking part in the instruction of the student-soldiers of the University, giving courses on "Military Law" and "Issues of the War" which form part of the curriculum prescribed by the War Department. In addition, the absence of student editors will compel the JOURNAL to look to the faculty for more assistance than usual in the publication of editorial comments on recent cases.

ARMY DISCIPLINE AND THE LAW OF THE LAND

The double necessity of preserving that boasted bulwark of Anglo-Saxon institutions, "the supremacy of law,"¹ and at the same time maintaining discipline in the military and naval forces of the nation gives rise to interesting and troublesome problems. The soldier or sailor is bound to obey his superior officer; he is also subject to the law of the land.² Consequently when ordered to do an act which may prove to be unlawful he finds himself, in homely phrase, "between the devil and the deep sea." If he refuses to act he will be called upon to justify his disobedience before a court-martial, and the court-martial may decide that the order was not unlawful; if he carries out the order he may be haled before a civil court to answer a criminal charge or to defend a suit for damages, and that tribunal may find that the act was unlawful.

Faced by this awkward dilemma, soldiers will find comfort in a recent decision of the Supreme Court of Rhode Island, *State v. Burton* (1918, R. I.) 103 Atl. 962. This was a criminal complaint charging a member of the U. S. Naval Reserve Force, assigned to duty as a dispatch carrier at Newport, with violating the state automobile speed law. His defense was that he had acted under a specific order of his superior officer, which order was assumed by the officer to necessitate a violation of the state speed law and was given in a matter appertaining to the war and deemed by the officer to be urgent.

¹ This phrase denotes, among other things, that "every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals": see Dicey, *The Law of the Constitution* (6th ed.) 189.

"The established principle of every free people is, that the law shall always govern; and to it the military must always yield": Mr. Justice Field, in *Dow v. Johnson* (1879) 100 U. S. 158, 169. See also Menzies, *The Rule of Law during the War*.

² Dicey, *op. cit.* 295 ff.; see *State v. Sparks* (1864) 27 Tex. 627, 632: "The soldier is still a citizen, and as such is always amenable to the civil authority."